

SENATE RECORD VOTE ANALYSIS

105th Congress
2nd Session

Vote No. 282

September 22, 1998, 4:42 p.m.
Page S-10703 Temp. Record

STATE ABORTION PARENT INVOLVEMENT LAWS/Cloture

SUBJECT: Child Custody Protection Act . . . S. 1645. Nickles motion to close debate.

ACTION: CLOTURE MOTION REJECTED, 54-45

SYNOPSIS: As reported, S. 1645, the Child Custody Protection Act, will prohibit the knowing transportation of a minor across a State line with the intent that she obtain an abortion if she resides in a State with a parental consent or parental notification law and the required parental consent or notification has not been given. The bill will not create any Federal parental notice or consent requirement on minors' abortions, nor will it supersede, override, or in any other way alter existing State laws regarding minors' abortions.

On September 18, 1998, Senator Nickles sent to the desk a motion to close debate.

NOTE: A motion to invoke cloture requires a three-fifths majority (60) vote to succeed.

Those favoring the motion to invoke cloture contended:

Many Senators, and President Clinton, are hostile to the idea that it should be illegal for an adult to sneak an underage girl across State lines for an abortion in order to avoid State parental notification and consent laws on abortion. However, they understand that the majority of Americans do not agree with them on that point. Therefore, a number of Senators made very clear to us that they intended to offer as many unrelated amendments as they could think of in an attempt to load this bill down with items to which we objected and to prevent the bill from ever passing. They know that we do not have much time left this session, and they do not want the bad press reports that will come if the bill makes it to the President and is vetoed. Therefore, we were forced to file cloture. Now some Senators are making the claim that they must oppose cloture because they wish to offer amendments that are on the subject of the bill. However, that claim is nonsense, because those amendments would be clearly germane in post-cloture debate.

The main germane amendment that they have said that they wish to offer is an amendment that would allow certain family

(See other side)

YEAS (54)			NAYS (45)			NOT VOTING (1)	
Republicans (52 or 95%)	Democrats (2 or 5%)		Republicans (3 or 5%)	Democrats (42 or 95%)		Republicans (0)	Democrats (1)
Abraham	Helms	Hollings	Chafee	Akaka	Johnson		Glenn ²
Allard	Hutchinson	Reid	Jeffords	Baucus	Kennedy		
Ashcroft	Hutchison		Specter	Biden	Kerrey		
Bennett	Inhofe			Bingaman	Kerry		
Bond	Kempthorne			Boxer	Kohl		
Brownback	Kyl			Breaux	Landrieu		
Burns	Lott			Bryan	Lautenberg		
Campbell	Lugar			Bumpers	Leahy		
Coats	Mack			Byrd	Levin		
Cochran	McCain			Cleland	Lieberman		
Collins	McConnell			Conrad	Mikulski		
Coverdell	Murkowski			Daschle	Moseley-Braun		
Craig	Nickles			Dodd	Moynihan		
D'Amato	Roberts			Dorgan	Murray		
DeWine	Roth			Durbin	Reed		
Domenici	Santorum			Feingold	Robb		
Enzi	Sessions			Feinstein	Rockefeller		
Faircloth	Shelby			Ford	Sarbanes		
Frist	Smith, Bob			Graham	Torricelli		
Gorton	Smith, Gordon			Harkin	Wellstone		
Gramm	Snowe			Inouye	Wyden		
Grams	Stevens						
Grassley	Thomas						
Gregg	Thompson						
Hagel	Thurmond						
Hatch	Warner						

EXPLANATION OF ABSENCE:

- 1—Official Business
- 2—Necessarily Absent
- 3—Illness
- 4—Other

SYMBOLS:

- AY—Announced Yea
- AN—Announced Nay
- PY—Paired Yea
- PN—Paired Nay

members, including grandparents, to circumvent State notice and consent laws by taking girls across State lines for abortions. We would happily debate and vote on such an amendment. Personally, we would oppose it, but we are not at all trying to prevent a vote. This bill is not about setting such Federal standards--it is only about enforcing State standards as they exist and where they exist. If it is legal in a State now for a grandfather to take his granddaughter for a secret abortion (which it is in many States), after this bill passes it will still be legal, and it will still be legal to take her to another State for an abortion. If it is legal for an abortion activist to take a girl to an abortion clinic in a State without telling her parents (which it is in many States), after this bill passes it will still be legal, and it will still be legal to take her to another State for an abortion. Even if it is legal for the mother of a rapist of a 12-year-old girl to take that girl for an abortion without telling that girl's parents (and it is perfectly legal in many States), after this bill passes it will still be legal, and it will still be legal to take her to another State for an abortion. However, if it is not legal in a State to engage in the above activities, this bill will make it illegal to sneak around those laws by going to another State. Again, if our colleagues want to offer any amendments to override State laws on parental notice or consent, we would happily debate and vote on those amendments. However, we cannot consider such amendments if our colleagues will not offer them.

Some Senators, in general opposition to the bill, have said that they question whether it is constitutional to make it a crime to cross State lines to escape enforcement of a State law. They have said that taking a young girl across State lines for an abortion, without her parents knowledge or permission, is the equivalent of crossing State lines to gamble or to buy liquor, cigarettes, or guns. We think a much more appropriate comparison is with the Deadbeat Parents Punishment Act which was enacted just this year. When that bill was passed not one of our liberal colleagues suggested that it was unconstitutional to make it a Federal crime to leave a State in order to avoid paying child support. On any issue but abortion we believe our colleagues would admit that this type of law is wholly constitutional.

We remind our pro-choice colleagues that the case that prompted this legislation, and which is still being litigated, is of a rapist's mother who evaded Pennsylvania's parental consent law by sneaking her son's victim into another State for an abortion. In that case, the rapist had gotten his 12-year-old victim drunk and then raped her when she was unconscious. Radical pro-abortion groups, and many of our colleagues, question whether that rapist's mother did anything illegal, and they say that Pennsylvania has no right to press charges against her. Unfortunately, we realize that at this time it is futile to remind our colleagues of that case or of any of the other compelling reasons why we need to pass this bill. This vote, sadly, is just going to be political. We suspect that even most of those Democratic Senators who are supportive of this bill are going to obey President Clinton and their other party leaders and vote against it. As a result, for the worst of political reasons, parents' rights under State laws to protect their daughters will be denied. On this vote we will lose, but the issue will not go away. Eventually we will succeed.

Those opposing the motion to invoke cloture contended:

Many of us have very serious constitutional concerns regarding this bill. In effect, it will allow one State to adopt a law that will follow its citizens to all other States. We do not know of any other case in which we allow this to happen. For instance, States that have laws against gambling, or against buying liquor, cigarettes, or guns, do not try to enforce those laws on their citizens when they go to other States where those activities are legal. Others of us do not share those constitutional concerns, but we are not pleased that the bill does not have an exception for grandparents or adult siblings. When a young woman decides to have an abortion, it is a difficult decision, and we would like her to have the support of a caring adult relative when she goes through with that decision. If for any reason a parent is not supportive, it should be possible to turn to another adult relative for help. If our colleagues close debate now, it will not be possible for us to offer an amendment on this matter. Further, even though some of us would vote in favor of final passage without that improvement, as a practical matter it would be to no avail, because the President has said that he would veto this bill in its current form. Thus, for both procedural and substantive reasons, we oppose cloture.